

John Spencer Stewart, OSB #711648  
[jstewart@lawssl.com](mailto:jstewart@lawssl.com)  
Tyler J. Storti, OSB #034695  
[tstorti@lawssl.com](mailto:tstorti@lawssl.com)  
STEWART SOKOL & LARKIN LLC  
2300 SW First Avenue, Suite 200  
Portland, OR 97201-5047  
Telephone: (503) 221-0699  
Facsimile: (503) 223-5706

*Attorneys for Defendant Moore Excavation Inc., dba MEI Group*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

DEAN WESSELS,

Plaintiff,

v.

MOORE EXCAVATION INC., d.b.a. MEI  
GROUP,

Defendant.

Case No. 3:14-cv-01329-HZ

**STIPULATED AGREEMENT ON  
DISCOVERY AND PRETRIAL  
MATTERS AND REPORT OF RULE  
26(f) JOINT SCHEDULING  
CONFERENCE**

**By all Parties**

1. The following persons participated in a Rule 26(f) discovery planning conference on multiple days, concluding May 8, 2014 as follows:

a. Tyler J. Storti, Stewart Sokol & Larkin LLC on behalf of Defendant Moore Excavation Inc., dba MEI Group.

b. Kerry Smith, Smith & Fjelstad on behalf of Plaintiff Dean Wessels.

2. **Initial Disclosures**. The parties agree to exchange the initial disclosures required by Rule 26(a)(1) on or before January 15, 2015.

3. **Discovery Plan**. The parties propose the following discovery plan:  
a. As to any discovery dispute, the lead lawyers will make every reasonable effort to resolve by telephone in good faith any such dispute. In the event

that matter cannot be resolved, the parties will jointly make contact with the Court for guidance.

b. Depositions will be taken by agreement, with both sides alternating and attempting in advance to agree upon the dates for depositions even prior to the identification of relevant deponents. The parties will follow the Federal Rules of Civil Procedure and any applicable Local Rules regarding all limitations with respect to discovery. The parties will endeavor to use the same court reporter/videographer.

c. Documents to be produced pursuant to Requests for Production will be produced on a “rolling” basis as soon as they have been located and Bates labeled; if copies are produced, the originals will be made available for inspection upon reasonable request.

d. Disclosure and discovery of electronically stored information will be handled as follows: The parties have not yet stipulated to any special form of discovery or the handling of electronically stored information. The parties agree to act in good faith in developing a workable, efficient and economical method of discovery of electronically stored information and documents.

e. If necessary, the parties will cooperatively prepare an acceptable Stipulated Protective Order addressing discovery information, confidentiality and claims of privilege and protection of trial-preparation materials, which will necessarily incorporate the parties’ stipulation to the protections afforded by FRE 502 concerning the inadvertent disclosure of communications or other information covered by the attorney-client privilege or work product protection. The production of a privileged document will be understood to not waive the privilege as to that document or other privileged documents. Documents that the other side claims are privileged can be snapped back as soon as it is discovered they were produced without any need to make a showing that the production was inadvertent.

f. All deposition exhibits will be numbered sequentially, etc. regardless of the identity of the deponent or the side introducing the exhibit and the same numbers will be used in pretrial motions and at trial.

g. Expert witness reports will be exchanged and provided as otherwise set forth in the Federal Rules of Civil Procedure as modified by the Local Rules to the extent applicable.

h. Absent discovery of new information hereafter, the parties must join any additional parties not later than January 30, 2015.

i. Absent discovery of new information hereafter, the parties must amend pleadings on or before January 30, 2015.

j. **Fact Discovery shall be completed by June 25, 2015.**

k. The parties do not anticipate retaining experts in this matter. However, if experts are retained, the following deadlines apply: expert disclosures and reports shall be exchanged pursuant to Rule 26(a)(2) by July 10, 2015; rebuttal expert disclosures and reports shall be exchanged pursuant to Rule 26(a)(2) by July 24, 2015; and depositions of experts will be completed by August 14, 2015.

l. Discovery will be needed on all issues raised by the pleadings pursuant to the scope of discovery contemplated by Rule 26(b)(1).

4. The parties have not agreed to consent to a Magistrate Judge.

5. **Summary judgment motions:** Motions pursuant to Rule 56 shall be filed on or before August 14, 2015.

6. The parties will agree upon a jury questionnaire to be utilized in connection with voir dire.

7. **ADR** – The parties are both amenable to exploring one or more ADR methods and, as discovery progresses, will discuss which of the options set forth in LR

///

160-4 they will pursue. The parties will file a Joint ADR Report pursuant to LR 16-4(d) on or before June 25, 2015.

8. The parties request a conference with the Court to discuss the Pretrial Order, Pretrial Motions, and Trial.

The parties respectfully move the Court for entry of the above-referenced deadlines for discovery, ADR and Summary Judgment Deadlines.

IT IS SO STIPULATED:

DATED this 18th day of December, 2014

STEWART SOKOL & LARKIN LLC

By: /s/ Tyler J. Storti  
John Spencer Stewart, OSB #711648  
Tyler J. Storti, OSB #034695  
*Attorneys for Defendant Moore  
Excavation, Inc., dba MEI Group*

DATED this 18th day of December, 2014

SMITH & FJELSTAD

By: /s/ Kerry M.L. Smith  
Kerry M.L. Smith, OSB #881033  
*Attorneys for Plaintiff*